

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 5:18-cv-01880-JVS (MAA) Date: November 15, 2018

Title Elijah Lee Miller v. Unknown Defendant

Present: The Honorable: MARIA A. AUDERO, U.S. Magistrate Judge

Cheryl Wynn
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Petitioner:
N/A

Attorneys Present for Respondent:
N/A

**Proceedings (In Chambers): Order to Show Cause Why This Case Should Not Be
Dismissed for Want of Prosecution**

On September 4, 2018, Plaintiff submitted a civil rights Complaint pursuant to 42 U.S.C. § 1983 (“Complaint,” ECF No. 1). However, Plaintiff neither paid the required \$400 filing fee nor filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (*See* ECF No. 2.)

On September 7, 2018, the Court issued an Order Re: Application to Proceed *In Forma Pauperis* (ECF No. 4), which ordered Plaintiff, within thirty (30) days, to submit the \$400 filing fee or application to proceed *in forma pauperis* with supporting documentation. (*Id.*) The Court cautioned Plaintiff that failure to comply with the order “will result in a recommendation that the Complaint be dismissed.” (*Id.*)

On September 24, 2018, Plaintiff filed a Request to Proceed Without Prepayment of Filing Fees with Declaration in Support. (“Request,” ECF No. 6.) On October 1, 2018, the Court denied Plaintiff’s Request, and gave Plaintiff leave to re-submit the Request, with supporting documentation, within thirty (30) days from the date of the order. (ECF No. 8.) The Court explicitly stated that “[i]f plaintiff fails to submit the required documents within 30 days, this case shall be DISMISSED.” (*Id.*)

On September 28, 2018, the Court issued an order dismissing the Complaint with leave to amend. (ECF No. 7.) The Court ordered that if Plaintiff still wished to pursue this action, then he should file a First Amended Complaint no later than thirty (30) days after the date of the order utilizing the standard civil rights complaint form (Form CV-066), a blank copy of which was attached to the order. (*Id.* at 1.) The Court explicitly cautioned Plaintiff that “failure to timely file a

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First Amended Complaint, or failure to correct the deficiencies described [in the order], [would] result in a recommendation that this action, or portions thereof, be dismissed with prejudice for failure to prosecute and/or failure to comply with court orders pursuant to Federal Rule of Civil Procedure 41(b).” (*Id.* at 2.)

To date, Plaintiff has neither submitted a First Amended Complaint nor re-submitted a revised application to proceed *in forma pauperis*.

Plaintiff is **ORDERED TO SHOW CAUSE** by **December 17, 2018** why the Court should not recommend that the case be dismissed without prejudice for want of prosecution. C.D. Cal. L.R. 41-1. If on or before that date, Plaintiff: (1) files a First Amended Complaint; and (2) submits the \$400 filing fee or an application to proceed *in forma pauperis*, then the Order to Show Cause will be discharged, and no additional action need be taken. Plaintiff is advised that failure to respond to this Order to Show Cause will result in a recommendation that the Complaint be dismissed.

It is so ordered.

Initials of Preparer

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cw